

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 85-0489-RGS

UNITED STATES OF AMERICA,  
Plaintiff,

v.

METROPOLITAN DISTRICT COMMISSION, et al.,  
Defendants.

CIVIL ACTION NO. 83-1614-RGS

CONSERVATION LAW FOUNDATION OF NEW ENGLAND, INC.,  
Plaintiff,

v.

METROPOLITAN DISTRICT COMMISSION,  
Defendant.

SCHEDULE SEVEN COMPLIANCE ORDER NUMBER 229

October 12, 2013

STEARNS, D.J.

This is the two hundred and twenty-ninth Compliance Order that has issued in this litigation. On September 13, 2013, the Massachusetts Water Resources Authority (MWRA) filed its Quarterly Compliance and Progress Report. The United States and

the Conservation Law Foundation have each indicated that they decline to file a response.

## **I. Schedule Seven**

### **A. Activities Completed**

#### **1. Bulfinch Triangle Sewer Separation**

The MWRA reports that, as anticipated in previous reports and orders, the Boston Water and Sewer Commission (BWSC) achieved substantial completion of the Bulfinch Triangle sewer separation project in July of 2010, three years ahead of the milestone in Schedule Seven. The project has made a significant contribution to the elimination of combined sewer overflows (CSO) into the Charles River and Boston Inner Harbor.

#### **2. Construction of Brookline Sewer Separation**

The MWRA also confirms, as previewed in the last quarterly compliance order, the success of the Town of Brookline's \$26 million sewer separation project in reducing CSO at the MWRA's Cottage Farm facility and at outfalls along the Charles River.

## **II. Progress Report**

### **A. Combined Sewer Overflow Program**

#### **1. Connection Relief at Outfall SOM01A**

The MWRA reports that on August 30, 2013, it issued the Notice to Proceed with the construction contract for the SOM01A project, which involves an upgrade to the hydraulic capacity of the connection between the Tannery Brook Conduit and the Alewife Brook Conduit. This will result in the reduction of discharges from the Tannery Brook Conduit at Outfall SOM01A, and provide floatables control. The MWRA expects to complete construction in advance of the June 2014 Schedule Seven milestone.

2. Control Gate and Floatables Control at Outfall MWR003 and MWRA Rindge Avenue Siphon Relief

The MWRA reports that it continues to make progress towards completion of this project, which will upgrade the overflow hydraulic capacity at Outfall MWR003. The upgrade is essential to providing adequate system relief in extreme storms, in part to compensate for the planned closing of Outfall CAM004. In addition, the project will increase the hydraulic capacity at the Rindge Avenue siphon, which delivers overflows to Outfall MWR003. An automated gate that can provide a higher overflow capacity (as well as floatables control) will replace the existing static overflow weir.

The MWRA reports that after it receives 100-percent design plans (anticipated later this month), it will seek a wetlands order of conditions from the Cambridge Conservation Commission, as well as a construction permit from the Massachusetts Department of Conservation and Recreation (DCR), which owns the Alewife Brook Reservation, where the project is located. According to the MWRA, it expects to begin physical construction by August of 2014, in compliance with Schedule Seven.

### 3. CAM004 Sewer Separation

The MWRA reports that the \$17 million Contract 8A is now approximately 65 percent complete. As discussed in previous compliance orders, this project involves the installation of a sanitary sewer and storm drain pipe in the vicinity of Huron Avenue, Fresh Pond, and Brattle Street. The sewer separation work is scheduled to be completed in May of 2014, to be followed by the completion of surface restoration work in December of 2014.

Cambridge has additionally completed the design of the \$28.9 million Contract 8B, which involves the separation of combined sewers in an 83-acre area between Concord Avenue and Brattle Street. Contract 8B contemplates the installation of new sanitary

sewers and storm drains along Huron Avenue (and several intersecting streets), amounting to 19,300 linear feet of new sanitary sewer and storm drain; 2,800 linear feet of trenchless pipe rehabilitation; and 13,230 linear feet of ductile iron water main. The MWRA reports that Cambridge awarded the construction contract on August 30, 2013, and issued the Notice to Proceed with construction on September 12, 2013.

The MWRA also reports that Cambridge has completed approximately 90 percent of the design of Contract 9, which includes the installation of new sanitary sewers and storm drains along Concord Avenue (and intersecting streets). This project will separate combined sewers in a 60-acre area from Fresh Pond Parkway to the intersection of Concord and Huron Avenues.<sup>1</sup> Cambridge plans to begin construction on Contract 9 in January of 2014, with substantial completion anticipated in December of 2015, in Compliance with Schedule Seven.

#### 4. Reserved Channel Sewer Separation

The MWRA reports that the BWSC continues to make design and construction progress on the remaining contracts that comprise

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<sup>1</sup> Cambridge presented the 90 percent design plans at a community meeting in September.

the Reserved Channel sewer separation project. The two remaining sewer separation contracts – the \$10.8 million Contract 3B (which involves sewer separation over a span of 66 acres) is now 80 percent complete, and the \$9.1 million Contract 4 (which involves sewer separation over 182 acres) is now 70 percent complete. Contract 3B is expected to be completed in October of 2014, and Contract 4 should be completed no later than August of 2015.

The MWRA additionally reports that the \$6.8 million Contract 8 (for pavement restoration following sewer separation-related construction) remains 30 percent complete; that BWSC is progressing with the design for Contract 5 (for the cleaning and lining of existing sewers); and that BWSC will advertise and award contracts for Contract 5 and Contract 6 (for downspout disconnections) later this year. According to the MWRA, all work for the Reserved Channel Sewer Separation project remains on track for completion by December of 2015, in compliance with Schedule Seven.

### III. Comments

The court is pleased with the continued progress on all projects in the past quarter. I am looking forward to the dedication of the Alewife Reservation Constructed Wetland on October 15, 2013, and

the opportunity to thank Mayor Henrietta Davis and City Manager Richard Rossi for their efforts on behalf of the City of Cambridge to insure the successful remediation of the Charles River and Boston Harbor. Finally, I would like to add a word of praise to Attorney John Stevens for his many contributions to this now nearly 30-year-old court case. Mr. Stevens entered his appearance for the MWRA on March 14, 1986, and has played an instrumental role in every twist and turn of the litigation. While his zeal in defending the interests of his client was unflagging, in the best traditions of the practice of law, he never lost sight of the larger public interest that this case was meant to serve – achieving a clean Boston Harbor and a safe drinking water system for present and future generations. I wish Mr. Stevens well in his retirement.

ORDER

The parties are ordered to report to the court as previously scheduled.

SO ORDERED.

/s/ Richard G. Stearns

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UNITED STATES DISTRICT JUDGE